

Regulations Regarding Gas Pipeline Safety Enforcement Procedures

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION
DIVISION OF PUBLIC UTILITIES AND CARRIERS
PROVIDENCE, RHODE ISLAND

IN RE: REGULATIONS REGARDING GAS
PIPELINE SAFETY ENFORCEMENT
PROCEDURES
DOCKET NO. D 86-4

REPORT AND ORDER

WHEREAS: The Regulations attached hereto are necessary to satisfy the federal requirements contained in Section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended.

WHEREAS: The Public Utilities Commission, Division of Public Utilities and Carriers shall have power to make such reasonable rules as will aid it in the administration and enforcement of its legal responsibilities. Rhode Island General Law, Title 39, Chapter 3, Section 33, as amended.

ACCORDINGLY, IT IS

(11952) ORDERED: That the Regulations attached hereto are hereby adopted by the Public Utilities Commission, Division of Public Utilities and Carriers.

DATED AND EFFECTIVE AT PROVIDENCE, RHODE ISLAND THIS
THIRTEENTH DAY OF MARCH, 1986.

Edward F. Burke, Administrator

I hereby certify that this is a true and accurate copy.

Richard D. Jendzejec
Commission Records Clerk
March 12, 1986

STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES AND CARRIERS

ENGINEERING DIVISION
GAS PIPELINE SAFETY SECTION

REGULATIONS REGARDING GAS PIPELINE
SAFETY ENFORCEMENT PROCEDURES

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on: March 13, 1986

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ENFORCEMENT PROCEDURES

I. DEFINITIONS

- A. "Division" shall mean the Administrator of the Division of Public Utilities and Carriers or his/her designee of the Division of Public Utilities and Carriers.
- B. "Operator" shall mean a person who engages in the transportation of gas.
- C. "Person" shall mean any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association or joint stock association, and including any trustee, receiver, assignee or personal representative thereof.
- D. "Pipeline" shall mean all parts of those physical facilities through which gas moves in transportation, including pipe, valves and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies up to the outlet of customers meters or the connection to a customer's piping, whichever is farther downstream.
- E. "Pipeline facility" shall mean new and existing pipeline, rights-of-way and any equipment, facility or building used in the transportation of gas or in the treatment of gas during the course of transportation.

II. JURISDICTION

The Rhode Island Division of Public Utilities and Carriers, pursuant to Chapters 3 and 4 of Title 39 of the General Laws of Rhode Island, as amended, is empowered to prescribe and enforce safety standards for pipeline facilities and to regulate safety practices of persons engaged in the transportation of natural gas and other gas by pipeline to the extent permitted by the Natural Gas Pipeline Safety Act of 1968 and any amendments thereto.

Federal regulations issued under the Act of 1968, promulgated by the Office of Pipeline Safety of the United States Department of Transportation and published in Title 49 CFR, Parts 191, 192 and 193, apply to all pipeline operators. The Safety Standards of the Act (the Pipeline Safety Regulations) apply to the design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection and testing are not applicable to pipeline facilities in existence prior to the act. The Division has adopted the above regulations as state regulations.

The Division may prescribe additional safety standards that apply to pipeline operators. Such safety standards shall be practicable and designed to meet the needs for pipeline safety. When prescribing and enforcing such standards, the Division will consider:

- A. Relevant available pipeline safety data.
- B. Whether such standards are appropriate for the particular type of pipeline transportation.
- C. The reasonableness of any proposed standards.
- D. The extent to which such standards will contribute to public safety.

Whenever the Division finds a particular facility to be hazardous to life or property, it is empowered to require the person operating such facility to take steps necessary to remove such hazards.

III. AUTHORITY TO INSPECT

The Division has the power to investigate all methods and practices of pipeline operators, to require the maintenance and filing of reports, records and other information in such form and detail as the Division may prescribe, to enter at all reasonable times to inspect the property, buildings, plants, and offices of such pipeline operators, and to inspect books, records, papers and documents relevant to the enforcement of the rules and regulations.

IV. INTERVALS OF INSPECTION

The Division is authorized to enter upon, inspect and examine, at all reasonable times and in a reasonable manner, the records and properties of pipeline operators to the extent such records and properties are relevant to determining the compliance of such pipeline operators with Division rules and regulations or Division orders.

Inspections are ordinarily conducted pursuant to one or more of the following:

- A. Routine scheduling
- B. A complaint received from a member of the public.
- C. Information obtained from a previous inspection.
- D. Pipeline accident or incident.
- E. Whenever deemed appropriate by the Division.

V. INSPECTION OF THE OPERATORS

The Division shall attempt to periodically inspect every pipeline operator, with priority given to inspecting systems with greater risk potential. In determining the potential risk of a pipeline system, the following factors may be considered:

- A. The ratio of total steel pipe to coated steel pipe.
- B. The ratio of total steel pipe to cathodically protected steel pipe.
- C. Leaks per mile of line.
- D. Leaks per number of services
- E. Unaccounted-for gas volumes and percentages.
- F. Number of accidents or incidents.
- G. History of violations discovered.

The inspection will include a thorough review of the operator's records concerning inspection, operation, maintenance and emergency procedures. Field inspection will include operational checks of corrosion control provisions, over-pressure and regulating equipment, odorization, repaired leaks, emergency valves and any other components of the facility.

VI. DISCOVERY AND NOTICE OF ALLEGED VIOLATION

When an evaluation of a pipeline-operator's records and facilities indicates an alleged violation with state or federal regulations, the inspector shall review the basis for such alleged violation with the pipeline operator before concluding his inspection.

The inspector shall then notify the operator of the alleged violation in writing. He shall also make an alleged violation report to be retained by the Division.

Any documentation or physical evidence necessary to support an alleged violation may be obtained during the inspection or requested by letter immediately after the conclusion of the visit.

VII. RESPONSE OPTIONS AVAILABLE TO THE OPERATOR

The pipeline operator shall respond within twenty (20) days to the alleged violation notice in the following manner:

- A. submit a written plan of action to the Division outlining actions that will be taken to correct the alleged violation, including a schedule and the date when compliance is anticipated; or
- B. request an informal conference with the Division.

The alleged violation may be resolved if the plans in Option A above are accepted by the Division. However, if the operator selects Option B, an informal conference will be scheduled as explained below in Section VIII. Failure to respond in accordance with this section will result in formal legal or administrative action as set out in Section IX.

VIII. INFORMAL CONFERENCE

After receiving the request for the informal conference, a date and time for a conference will be arranged forthwith. At the conference, the bases for the alleged violation will be reviewed. The pipeline operator may explain its position and may present alternatives for rectifying the problem. Division staff will be represented by the investigator who issued the notice of alleged violation and by other members of the Division as necessary. The report generated by the informal conference will be filed with the alleged violation and retained by the Division.

If agreement cannot be reached, the enforcement procedure will continue as explained in Section IX.

IX. DIVISION ACTION

If the Division is not satisfied with the proposed solution as outlined in Section VII and VIII, the Division can:

- A. seek an injunction. in Superior Court in cases where immediate action is necessary, or
- B. issue a show-cause order and/or schedule a evidentiary hearing requiring the operator to demonstrate why the operator should not be subject to the penalties set forth in R.I.G.L. Sec.39-2-8, which sets forth criminal penalties of not less than \$200 nor more than \$1,000 for each violation, or
- C. pursuant to evidentiary hearing, order an operator to take corrective action. Failure to obey such an order may result in the aforementioned penalties being imposed.

X. APPEAL

Any operator aggrieved by a final decision of the Division may appeal therefrom to the Superior Court under Title 42, Chapter 35, Section 15 of the General Laws of Rhode Island, as amended.

ADDENDUM

Under the Rhode Island Administrative Procedures Act, specifically, Title 42, Chapter 35 Section 3(3) and (4), the Rhode Island Public Utilities Commission, Division of Public Utilities and Carriers is mandated to provide two statements with reference to the Rules and Regulations attached hereto.

The first statement, made pursuant to Section 3(3), *supra*, is designed to demonstrate the need for the adoption of the instant rules and regulations. The Division of Public Utilities and Carriers asserts that the Rules and Regulations, as filed, satisfy the federal requirements contained in Section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended.

The second statement, made pursuant to Section 3(4), *supra*, addresses whether the instant Rules and Regulations would have a significant adverse economic impact on small business. The Division of Public Utilities and Carriers maintains that this section is inapplicable to the present rulemaking procedures, as the business entities that would be subject to these Rules and Regulations are not small businesses as defined in the Rhode Island Administrative Procedures Act. R.I.G.L., Section 42-35-1 (h) (1).